

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-2036

LESLIE WAYNE BYRD,

Plaintiff - Appellant,

versus

GARNER POLICE DEPARTMENT; WAKE COUNTY; STATE
OF NORTH CAROLINA,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. Malcolm J. Howard,
District Judge. (CA-04-313-H)

Submitted: November 4, 2004

Decided: November 9, 2004

Before WILKINSON, MOTZ, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Leslie Wayne Byrd, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Leslie Wayne Byrd appeals from a district court order dismissing his 42 U.S.C. § 1983 (2000) claims against the State of North Carolina as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B) (2000). The court permitted Byrd to proceed with claims against the other parties. We dismiss the appeal for lack of jurisdiction because the order is not appealable. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order here appealed is neither a final order as to all of Byrd's claims nor an appealable interlocutory or collateral order.

We dismiss the appeal as interlocutory. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED